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Promotion and protection of human rights: human rights questions, including alternative approaches for improving the effective enjoyment of human rights and fundamental freedoms

Protection of migrants

Report of the Secretary-General

Summary

The present report, submitted in accordance with General Assembly resolution 65/212, contains a summary of communications received from Governments in response to a note verbale dated 7 June 2011 from the Office of the United Nations High Commissioner for Human Rights (OHCHR), on behalf of the Secretary-General, requesting information on the implementation of that resolution. The report also contains a summary of communications received from Governments in response to a note verbale sent on 8 June 2010 by OHCHR on behalf of the Secretary-General requesting information on the implementation of resolution 64/166. The report also provides information on the status of the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families and on the activities of the Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families, the Special Rapporteur on the human rights of migrants, the universal periodic review process of the Human Rights Council and OHCHR.

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I. Introduction

1. In paragraph 10 of its resolution 65/212, the General Assembly requested the Secretary-General to submit a report on the implementation of that resolution to the Assembly at its sixty-sixth session and to include in the report an analysis of the ways and means to promote the human rights of migrants, in particular how the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families had influenced policy and practice, where applicable, to strengthen the protection of migrants, in the context of the twentieth anniversary of the Convention.

2. The report summarizes responses received from Member States concerning the implementation of General Assembly resolutions 64/166 (sect. II) and 65/212 (sect. III),[1] and provides information on the activities of the Special Rapporteur of the Human Rights Council on the human rights of migrants (sect. IV), the status of the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (sect. V), the activities of the Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families (sect. VI), the universal periodic review mechanism of the Human Rights Council (sect. VII) and the activities of the Office of the United Nations High Commissioner for Human Rights (OHCHR) (sect. VIII). Conclusions and recommendations are presented at the end of the report (sect. IX).

II. Information from Governments with regard to the implementation of General Assembly resolution 64/166

3. As at 26 July 2011, replies concerning the implementation of General Assembly resolution 64/166, in addition to those included in the previous report (A/65/156), had been received from: Qatar, Portugal and Spain. Summaries of the responses are provided below. The full texts of the responses are available from OHCHR, upon request.

Qatar

[Original: Arabic]
[15 July 2010]

The Government reported that the protection of migrants in the State of Qatar is a principle enshrined in the Constitution through the following principles: the society is based on the values of justice and charity, freedom, equality and morals (article 18); all people are equal before the law without discrimination on the basis of race, language or religion (article 35); and every person residing in the State has legal protection for his or her person and property, in accordance with the provisions of the law (article 52).

The Government further noted that the National Commission for Human Rights is mandated to consider grievances and complaints from migrants and can

[1] Sect. II includes responses to resolution 64/166 that were not included in the previous report on the protection of migrants (A/65/156) owing to their late submission.

refer them to the concerned authorities. The Ministry of Labour can also consider disputes between employers and migrant worker employees. The preferred method of dispute resolution is mediation. When this is not possible, cases are referred to the courts.

Portugal

[Original: English]
[5 August 2010]

The Government noted that Law No. 23/2007 on the entry, permanence, exit and removal of foreigners into and out of national territory (Aliens Act) and Law No. 147/99 on the promotion of the rights and the protection of children and youngsters at risk constitute the national legal framework on unaccompanied and separated children. Law No. 147/99 includes a set of measures aimed at the promotion of rights and protection of children and youngsters at risk in order to ensure their well-being and integral development.

The Constitution of the Portuguese Republic, in article 15, paragraph 1, extends to foreigners and stateless persons with residence in Portugal the enjoyment of the same rights, subject to the same duties, as Portuguese citizens.

The right to health and education as fundamental rights are enshrined in articles 64 and 73 of the Portuguese Constitution. These provisions have a universal nature and cannot be excluded by any restrictive interpretation, as laid down in paragraphs 1 and 2 of article 16 of the Constitution.

The Portuguese health and education systems are universal. This means that every person/child has the right to access health care and education facilities and services and that foreign citizens have the same access as their co-citizens to the health system and to its advantages, including medical care and social security and social services. In addition, according to Decree Law No. 67/2004, public schooling cannot be refused to children due to the irregular situation of their parents. The registry of irregular minors is confidential.

The Ministry of Health Normative Order No. 25 360 (2001) states that: "All citizens have the right to health and the duty to protect it. An immigrant living in national territory who feels ill or needs medical assistance therefore has the right to be assisted in a health centre or hospital (in case of emergency), and these services cannot refuse to assist him/her because of nationality, lack of economic means, irregular situation or any other reason". In 2009 the Ministry of Health issued Circular No. 12/DQS/DMD, which clarifies an instruction followed since 2001, according to which irregular immigrants who are in Portugal for over 90 days cannot be refused access to public health care, although, in general terms, they might have to bear the real costs. Exceptions may be made, however, in cases where urgent and vital care are needed, or in case of transmissible diseases that endanger or threaten public health.

The Government reported that the Ministry of Education has put in place an action plan to help support the around 80,000 non-native students enrolled in Portuguese schools, taking into account the deep change in the school population, implementing measures adequate to the specific situation of those students, aiming at contributing to their full integration in the educational system.

Spain

[Original: Spanish]
[15 July 2010]

The Government reported the amendments introduced by Act LO 2/2009, adopted on 12 December 2009, to the previous Act on the Rights, Freedoms and Social Integration of Foreigners in Spain of 2000. Such amendments were motivated by two decisions of the Constitutional Court, European Union directives and the experience of new migrations to Spain. While migrants, regardless of their administrative situation, already enjoyed the rights to urgent health care, child and maternal health care and education in the case of children, some rights, such as the right to be documented, the right to family reunification, the right to work and to freedom of movement, were granted only to regular migrants. The Constitutional Court extended to irregular migrants the right to strike, and to form and join trade unions, demonstrations and associations.

The Government further reported that the new amendments strengthened the recognition of rights to all migrants, irrespective of their administrative condition. The new act also reinforced the right to judicial protection and expanded the right to family reunification, including protection to legal or common law partners, children and descendants with disabilities, and in some cases to parents, under certain conditions.

The new act has also introduced amendments regarding the application of sanctions. The principles that guide the application of sanctions are those of proportionality (provided that the sanctions related to the migratory condition are administrative and not criminal), legal guarantees (reduction of the margin of discretion to apply sanctions) and co-responsibility (consideration of the responsibility of Spanish nationals promoting irregular migration). Some of the amendments introduced in this regard include the provision of new administrative offences, both for migrants and for Spanish nationals that have promoted or participated in fraud regarding migrants, the joint liability of contracting and subcontracting enterprises when hiring irregular migrants and failing to comply with their contractual obligations and the establishment of fines as prima facie sanctions, thus limiting the discretion to effect expulsions, which should be exceptional. The new act includes some specific guarantees regarding expulsions: the need to provide explicit justification for such measures, the possibility of revocation in some cases, the provision of some exceptions to expulsion and protections for victims of human trafficking.

The act also includes some amendments regarding immigration detention centres, which are not considered criminal but precautionary facilities. The legislation provides for alternatives to detention, sets a 60-day limit for such detention and ensures detainees access to non-governmental organizations and national and international bodies working to protect the rights of migrants.

The Government highlighted the protection provided by the Spanish legislation to the rights of unaccompanied migrant children. The principles guiding such legislation are: the best interest of the child; the preservation of the contact with his/her family; and social and family integration. In this regard, the Spanish legal framework considers a number of flexible possibilities, taking into account the need for immediate protection, the existence of family members or other persons

who could take charge of the child and the existence of social protection services in his/her country of origin.

III. Information from Governments with regard to the implementation of General Assembly resolution 65/212

4. As at 26 July 2011, the Governments of the following Member States had replied to the note verbale sent on 7 June 2011: Azerbaijan, Cyprus, Ecuador, Honduras, Mauritius and Slovakia. Informal summaries of the responses are provided below. The full texts of the responses are available, upon request, from OHCHR.

Azerbaijan

[Original: English]
[14 July 2011]

The Government reported that it had ratified a number of international instruments relevant to migration, including the United Nations Convention against Transnational Organized Crime and its Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children, and its Protocol against the Smuggling of Migrants by Land, Sea and Air.

According to article 69, paragraph 1, of the Constitution of Azerbaijan adopted in 1995, foreigners and stateless persons enjoy equal rights with citizens. Specific rights related to movement and work are reflected in the law on the "Legal status of foreigners and stateless persons" which was adopted in 1996. The Government further noted that Presidential Decree No. 69, dated 4 March 2009, simplifies the procedures for registration of foreigners and stateless persons arriving in the country for residence or work.

A draft migration code, which has been elaborated for the purpose of protecting the rights of migrants, has been presented to the Cabinet of Ministers of Azerbaijan. The Migration Service of Azerbaijan collaborates with the migration authorities of other countries, as well as with international organizations, in order to protect the rights of migrants. The Migration Service also carried out awareness-raising activities through its Migration Information Centre.

Cyprus

[Original: English]
[18 July 2011]

The Government noted that although it had not ratified the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, it had taken specific measures to protect the rights of migrants.

The first national action plan 2010-2012 for the integration of third country nationals legally residing in Cyprus, approved by the Council of Ministers on 13 October 2010, includes eight pillars for action derived from principles developed within the European Union. These pillars are: information, services and

transparency; employment; education, learning the language; health; housing, improving quality of life, social protection and interaction; learning the culture, civic participation, basic knowledge of political and social life in Cyprus; participation; and evaluation.

The Government further noted that trafficking in human beings is considered a cross-border criminal phenomenon and that combating this phenomenon is one of the top priorities of the Ministry of Interior and the Multidisciplinary Coordinating Group against Trafficking in Human Beings. On 22 April 2010, the Council of Ministers adopted a new national action plan against trafficking in human beings. The implementation of the action plan has already commenced, including the publication of information materials and an awareness-raising event on the plan held on 18 October 2010.

Ecuador

[Original: Spanish]
[14 July 2011]

The Government reported that Ecuador had ratified the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families on 18 October 2001 and had presented two reports to the Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families, elaborating measures taken to fulfil its obligations under the Convention.

The Government noted that the National Secretariat for Migrants had been elevated to the ministerial level in March 2007, and that it had enacted a national development plan for migrants, which aims, inter alia, to protect and promote their human rights.

The Government further reported that the right to health and to education are guaranteed by the Constitution and that such rights are also extended to foreigners. All migrant children, irrespective of their legal status, are guaranteed the right to education. In addition, important advances have been made to ensure that all children born in Ecuador have nationality, regardless of the legal status of their parents. In addition, parents of children who are Ecuadorian citizens are able to obtain a legal status.

Articles 61, 95 and 102 of the Constitution provide the right to participation in public affairs for Ecuadorians who are migrant workers. In addition, article 63 gives the right to vote to foreigners who have resided legally in Ecuador for at least five years.

Honduras

[Original: Spanish]
[20 July 2011]

On 27 February 2008, the Government reported in the Official Journal of Honduras that it had assigned resources for migrants through the creation of the "Solidarity Fund for Honduran Migrants in Vulnerable Situations". The Fund contains an assigned annual budget of 15 million lempiras, which should be

increased annually by a percentage equivalent to the inflation index established by the Central Bank of Honduras for the previous year. These funds can be allocated to migrants with scarce financial resources for: repatriation of the deceased; serious health conditions; amputations; terminal illnesses; assistance to victims of kidnappings; repatriation of non-accompanied minors; repatriation of men and women in vulnerable conditions; search of persons that went missing during the migration process; and immediate assistance to migrants deported by air or land. The Government further reported that the main beneficiaries of the fund are the 800,000 to 1,000,000 Hondurans who reside in the United States of America, approximately 73,000 of whom are in temporary protected status.

Honduras has signed and ratified the following international conventions: International Convention for the Protection of All Migrant Workers and Members of Their Families and the agreement for collaboration and international assistance between the National Commission for Human Rights of Honduras and the National Commission for Human Rights of Mexico.

Mauritius

[Original: English]
[18 July 2011]

The Government reported that under national legislation migrant workers enjoy the same terms and conditions of employment as those laid down for local workers. Section 16 of the Constitution provides that no law shall contain any provision that is discriminatory either in and of itself or in its effect. The Employment Rights Act 2008 applies equally to local and expatriate workers, guaranteeing to the latter equal protection in terms and conditions of employment and in the event of termination of employment by their employer.

The Government noted that the Employment Rights Act of 2008 also guarantees the fundamental right of migrant workers to freedom of association and protects their right to organize and engage in collective bargaining.

Slovakia

[Original: English]
[21 July 2011]

The Government reported that it supports equal access to employment for all foreigners who have legal residence in the country, ensuring them equal treatment in terms of recruitment, working conditions and occupational health and safety.

Special law No. 365/2004 Coll. on equal treatment in certain areas, including protection against discrimination (anti-discrimination act), provides that employers are obliged to treat all employees in accordance with the principle of equal treatment.

The Government noted that in order to protect the rights of migrants, free support services as well as information on work opportunities and social services are provided free of charge by the offices of labour, social affairs and family through

the European Union job mobility portal (EURES) and its departments. Social and legal counselling are also provided by several non-governmental organizations.

The Government also reported the existence of asylum procedures to provide protection to persons in need of international protection, including persons who have entered the territory of Slovakia illegally. The Asylum Act also contains the possibility of granting asylum on humanitarian grounds, including to elderly, ill or disabled people whose return to their country of origin could pose a serious threat to their lives.

IV. Activities of the Special Rapporteur of the Human Rights Council on the human rights of migrants

5. The activities of the Special Rapporteur are carried out in accordance with Human Rights Council resolutions 8/10 and 17/12, by which the Council extended the mandate of the Special Rapporteur on the human rights of migrants for a period of three years.

6. During the reporting period, the Special Rapporteur continued to advocate a human rights-based approach to migration and the protection of the human rights of migrants at all stages of the migratory process. In discharging his mandate, the Special Rapporteur met with numerous representatives of international and regional organizations, as well as of civil society, to discuss issues related to his work.

7. The Special Rapporteur attended the Global Consultation on Migrant Health, organized by the International Organization for Migration (IOM) and the World Health Organization (WHO) in Madrid from 3 to 5 March 2010. On 6 and 7 October 2010, he participated at the Festival Viva América, organized by Casa de América, in Madrid, Spain. From 4 to 8 October 2010, together with the Special Rapporteur on the sale of children, child prostitution and child pornography and the Special Rapporteur on contemporary forms of slavery, he participated in a conference entitled "Children on the Move", organized by the Global Movement for Children, Save the Children UK and the Fundació Privada Moviment Mundial a Favor de la Infància, in Barcelona, Spain, from 4 to 8 October 2010.

8. On 22 October 2010, the Special Rapporteur presented his annual report to the General Assembly (A/65/222). The report focused on the criminalization of migration.

9. From 8 to 11 November 2010, the Special Representative participated in the Fourth Meeting of the Global Forum on Migration and Development, hosted by the Government of Mexico in Puerto Vallarta. The Forum focused on partnerships for migration and human development.

10. At the seventeenth session of the Human Rights Council, the annual thematic report, and the final to be submitted by the outgoing Special Rapporteur on the human rights of migrants, Jorge Bustamante, was presented to the Council (A/HRC/17/33). In the first part of the report, the Special Representative recapitulated some of the main thematic issues he has focused on since his nomination, namely irregular migration and the criminalization of migrants, protection of children in the migration process and the right to housing and health of migrants. In the second part, he proposed a few possible themes which merit further

research under the mandate. The two themes he considered important for further research and discussion are: migration in the context of climate change; and the political participation and civil rights of migrants.

11. The Special Rapporteur also presented a report on the communications sent to Governments and the replies received (A/HRC/17/33/Add.1) and reports on his country missions to Senegal (A/HRC/17/33/Add.2), Japan (A/HRC/17/33/Add.3) and South Africa (A/HRC/17/33/Add.4).

12. At the seventeenth session of the Human Rights Council, François Crépeau (Canada) was appointed as the new Special Rapporteur on the human rights of migrants.

V. Status of the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families

13. The International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families entered into force on 1 July 2003. As at 1 July 2009, 44 States had ratified the Convention: Albania, Algeria, Argentina, Azerbaijan, Belize, Bolivia (Plurinational State of), Bosnia and Herzegovina, Burkina Faso, Cape Verde, Chile, Colombia, Ecuador, Egypt, El Salvador, Ghana, Guatemala, Guinea, Guyana, Honduras, Jamaica, Kyrgyzstan, Lesotho, the Libyan Arab Jamahiriya, Mali, Mauritania, Mexico, Morocco, Nicaragua, the Niger, Nigeria, Paraguay, Peru, the Philippines, Rwanda, Saint Vincent and the Grenadines, Senegal, Seychelles, Sri Lanka, the Syrian Arab Republic, Tajikistan, Timor-Leste, Turkey, Uganda and Uruguay. The entry into force of the Convention assists in securing a protective mechanism for the human rights of migrants, including those in irregular situations. All Member States that have not yet become parties to the Convention are urged to consider acceding to it promptly.

VI. Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families

14. The Committee, which is composed of 14 independent experts, monitors the implementation of the Convention by its States parties. Since its first session, held in March 2004, the Committee has considered the initial reports submitted by 15 States parties and two periodic reports.

15. At its thirteenth session, held from 22 November to 3 December 2010, the Committee considered the initial reports of Albania and Senegal (CMW/C/ALB/1 and CMW/C/SEN/1) and the second periodic report of Ecuador (CMW/C/ECU/2). At its fourteenth session, held from 4 to 8 April 2011, the Committee considered the second periodic report of Mexico (CMW/C/MEX/2).[2] The common issues raised by the Committee included: the need for measures to bring legislation into line with the provisions of the Convention; the importance of data collection to assist in the development of sound migration policies; the need to strengthen and expand training

[2] See the concluding observations of the Committee contained in documents CMW/C/ALB/CO/1, CMW/C/SEN/CO/1, CMW/C/ECU/CO/1 and CMW/C/MEX/CO/2.

programmes for all officials working in the area of migration on the rights enshrined in the Convention; the importance of ensuring that in practice all migrant workers and members of their families, including those in an irregular situation, had access to an effective remedy for the violation of their rights; the need for effective protection of migrants, including those in transit; the need for effective coordination among the different agencies dealing with migration issues; the need to supervise recruitment agencies; and the importance of continuing measures aimed at preventing and combating smuggling and trafficking in human beings.

16. At its thirteenth session, the Committee adopted its general comment No. 1 on Migrant Domestic Workers. The adoption of the general comment followed a thorough process of consultation, including three public meetings and a day of general discussion on migrant domestic workers, which was held on 14 October 2009.

17. The twentieth anniversary of the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families was commemorated in 2010. The Committee marked the occasion with a series of discussions examining the accomplishments of the Convention in the areas of migration and development and migration and gender and presented its perspective on the wider ratification and more effective implementation of the Convention.

18. The Committee has examined the second periodic reports of two countries: Ecuador (see CMW/C/ECU/2) and Mexico (see CMW/C/MEX/2). In both cases, the Committee recognized the efforts made and the steps taken by the States parties to implement their obligations under the Convention. In the case of Ecuador, the Committee welcomed the abolition of the exit permit requirement for nationals and foreigners wishing to leave the country (as recommended by the Committee in 2007) and also noted the entry into force of Ministerial Decision No. 337/2008, which guarantees access to preschool, primary and secondary education for children, including adolescents, of migrant workers, regardless of their migratory status (in line with the Committee's previous recommendation). In the case of Mexico, following the recommendations made by the Committee in 2006, the State party: recognized the Committee's competence to receive and consider communications from individuals under article 77 of the Convention; adopted the Act to Prevent and Punish Trafficking in Persons and the General Act on Women's Access to a Life Free of Violence; and incorporated the offence of human trafficking into its federal criminal code.

VII. Universal periodic review mechanism of the Human Rights Council

19. In 2006, the General Assembly, in its resolution 60/251, decided that the Human Rights Council should undertake a universal periodic review of the fulfilment by each State Member of the United Nations of its human rights obligations and commitments. During the reviews of 159 States undertaken at the 10 sessions of the Council's Working Group on the Universal Periodic Review in 2008, 2009, 2010 and 2011, recommendations were directed at a number of States

concerning the protection of migrants.[3] Recommendations included to: review and ensure that national legislation and policies on migrants complied with international human rights law;[4] take treaty action, including with regard to the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families;[5] cooperate with the special procedures, including the Special Rapporteur on the human rights of migrants;[6] and implement the recommendations of United Nations human rights mechanisms.[7] Other recommendations concerned non-discrimination and equality, especially in access to economic, social and cultural rights, including education and health services,[8] with particular reference to children and migrant women;[9] elimination of criminal sanctions against undocumented migrants;[10] consideration of alternative measures to the detention of migrants;[11] enabling access to justice and legal aid for migrant workers;[12] ensuring that the rights of migrants were respected, particularly by law enforcement officials.[13]

VIII. Activities of the Office of the United Nations High Commissioner for Human Rights

20. OHCHR continues its efforts to strengthen the protection of the human rights of migrants and to ensure that the perspective of the human rights of migrants is included in migration discussions at the national, regional and global levels.

21. OHCHR promotes the integration of human rights norms and standards in all aspects of migration policy. The Office works to ensure that migrants enjoy human rights without discrimination and works with States and other stakeholders to apply a human rights-based approach to migration, placing the migrants at the centre of migration policies and management and paying particular attention to the situation of marginalized and disadvantaged groups of migrants. A number of thematic areas focus the work of OHCHR on migration; combating discrimination, racism and xenophobia against migrants; promoting the economic, social and cultural rights of migrants; opposing the criminalization of irregular migration; advocating access to safeguards in the context of immigration detention and to alternatives to the

[3] The background documentation for the reviews also included information on the human rights of migrants, including information prepared by the State concerned, in a number of forms, including: a national report and two reports prepared by OHCHR; a compilation of United Nations information; and a summary of input from stakeholders. All documentation regarding the universal periodic review can be accessed at http://www.ohchr.org/EN/HRBodies/UPR/Pages/Documentation.aspx.

[4] See, for example, A/HRC/16/11, paras. 92.64 and 82.

[5] See A/HRC/15/6, paras. 86.1-12; A/HRC/15/11, paras. 97.2, 4-10; A/HRC/16/9, para. 80.2; A/HRC/16/11, paras. 92.1, 15 and 29-31; and A/HRC/17/8, paras. 94.1-9.

[6] See A/HRC/15/6, para. 84.6.

[7] See A/HRC/17/8, para. 92.88; and A/HRC/17/10, para. 86.38.

[8] See A/HRC/15/6, paras. 84.53, 85.20 and 86.33; A/HRC/15/11, para. 96.44; A/HRC/16/11, para. 92.211; and A/HRC/17/8, paras. 92.25, 40 and 91.

[9] See A/HRC/15/11, para. 95.75 and 96.46; A/HRC/16/11, para. 92.81; A/HRC/17/7, para. 89.72; and A/HRC/17/8, para. 93.26.

[10] See A/HRC/17/10, para. 86.126.

[11] See A/HRC/15/11, para. 96.39; and A/HRC/17/10, paras. 86.131 and 132.

[12] See A/HRC/16/15, para. 96.22; and A/HRC/16/11, paras. 92.185 and 213.

[13] See A/HRC/16/11, paras. 92.104, 105, 144 and 209.

detention of migrants; and protecting human rights in the context of mixed migration. In her public statements, the United Nations High Commissioner for Human Rights has consistently called for the promotion and protection of the human rights of all migrants, regardless of their status.

22. In September 2010, OHCHR presented a study at the fifteenth session of the Human Rights Council on challenges and best practices in the implementation of the international framework for the protection of the rights of the child in the context of migration. The study was welcomed by Member States.[14]

23. Through its active participation in the Global Migration Group, OHCHR has actively sought to promote and mainstream a human rights approach to migration within the United Nations system. From July to December 2010, as Chair of the Global Migration Group, the High Commissioner for Human Rights made the human rights of all migrants, particularly those in an irregular situation, the thematic focus of the Group's discussions. A landmark joint statement, adopted by the principles of the Group in September, called on the international community to end discrimination and abuses against migrants in an irregular situation. The statement made the important point that international migrants in such circumstances should not be deprived either of their humanity or of their rights. Subsequently, a full-day meeting of experts on the human rights of irregular migrants, organized by OHCHR in October, generated policy recommendations on the issue of human rights and irregular migration which were widely disseminated.

24. On 17 and 18 May 2011, UNICEF as Chair of the Global Migration Group, convened a practitioners' symposium on the theme of "Migration and youth: harnessing opportunities for development". The symposium aimed to bring together a wide range of experts and practitioners to present future trends, discuss current knowledge, highlight existing gaps and share good practices on how to increase the positive impacts and minimize the negative impacts of migration on the development prospects of youth. OHCHR participated in the symposium as a member of the Group's troika, composed of OHCHR, the United Nations Educational, Scientific and Cultural Organization (UNESCO) and the United Nations Children's Fund (UNICEF).

25. OHCHR participated in a one-day informal thematic debate on international migration and development, which was convened by the President of the General Assembly on 19 May 2011. The debate was intended to build on the ongoing dialogue on international migration and development and to contribute to the process leading to the second High-level Dialogue on International Migration and Development, which is to be held at United Nations Headquarters in 2013. Mr. Anthony Lake, the Executive Director of UNICEF, addressed the informal thematic debate in his capacity as Chair of the Global Migration Group, and transmitted a joint statement on behalf of the Group stressing the importance of protecting the fundamental human rights of migrants.

[14] In its resolution 65/212 the General Assembly took note "with appreciation of the study of the Office of the United Nations High Commissioner for Human Rights on challenges and best practices in the implementation of the international framework for the protection of the rights of the child in the context of migration", and invited "States to take into account the conclusions and recommendations of the study when designing and implementing their migration policies".

26. As Chair of the Global Migration Group from July to December 2010, the High Commissioner addressed the fourth Global Forum for Migration and Development, which was held in Puerta Vallarta, Mexico, from 8 to 10 November 2010. In her statement, the High Commissioner called for an end to the criminalization of irregular migrants and urged all States to ratify and effectively implement the core international human rights instruments protecting their human rights in particular the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families. On 8 November, OHCHR organized a side event at the Global Forum to commemorate the adoption of the Convention and to call for its ratification.

27. On 11 and 12 May 2011, a two-day global round table on alternatives to the detention of migrants, refugees, asylum seekers and stateless persons was organized by OHCHR, in partnership with the Office of the United Nations High Commissioner for Refugees (UNHCR). The round table brought together representatives from States, OHCHR, UNHCR and other international organizations, human rights mechanisms, regional human rights bodies, national human rights institutions and national and international non-governmental organizations. The round table was organized to build on the results of the panel discussion on migrants in detention centres held during the twelfth session of the Human Rights Council.

28. OHCHR was invited to provide a training session on the normative framework related to the human rights of migrants organized by the International Labour Organization (ILO), and held in partnership with the Global Migration Group. OHCHR is currently finalizing a set of training modules on migration and human rights for the use of OHCHR field offices and United Nations country teams, as well as other stakeholders, including Governments, national human rights institutions and non-governmental organizations.

29. OHCHR supports efforts to promote the ratification of the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, including through the International Steering Committee of the Global Campaign for Ratification of the Convention on the Rights of Migrants, the work of which it coordinates. The Steering Committee is a network of international and regional civil society organizations and IOM, ILO, OHCHR and UNESCO. At the thirteenth session of the Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families, in November 2010, an event was jointly organized by the Committee and the Steering Committee to commemorate the twentieth anniversary of the Convention. The theme chosen for the one-day event was "Protecting rights, building cooperation". States and other partners made statements and shared their experiences and views on how the Convention has made a difference in migration policies and practices.

30. On 21 March, the United Nations High Commissioner sent a letter to each of the 15 signatories that have yet to ratify the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, urging them to take prompt action to ratify and implement it.

31. On the occasion of the twentieth anniversary, the Steering Committee launched a global campaign also calling on Governments to ratify the Convention. In the context of the campaign, letters were sent on behalf of the members of the Steering Committee to nine States (Armenia, Belgium, Cameroon, Costa Rica, Côte d'Ivoire,

Indonesia, Kenya, South Africa and Spain) to encourage them to ratify the Convention.

32. At its thirteenth session, the United Nations Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families adopted general comment No. 1 on Migrant Domestic Workers, in which it recognized the particular vulnerability of migrant workers employed in private homes. The general comment describes the vulnerability of migrant domestic workers and recommends a range of social and legal actions to promote and protect their human rights, including regulation of recruiters, the provision of social security and health services, the protection of labour rights and access to justice and remedies in the event of violations. On the occasion of the International Labour Conference in June 2011, the High Commissioner, in a statement to the Employers' Group, urged the adoption of robust labour standards to protect domestic workers and to ensure that the rights of migrants are effectively addressed within such standards. On 16 June, ILO adopted the Convention Concerning Decent Work for Domestic Workers, which is supplemented by a recommendation.

33. In 2011, OHCHR took over the rotating Chair of the Inter-Agency Cooperation Group against Trafficking in Persons, and in this capacity the Office organized a side event during the seventeenth session of the Human Rights Council to highlight the respective roles of different United Nations entities in protecting victims of trafficking.

34. The first regional launch of OHCHR's commentary on the Recommended Principles and Guidelines on Human Rights and Human Trafficking took place in Bangkok in December 2010. In 2010 and 2011, OHCHR participated in several regional capacity-building events to promote a human rights-based approach to addressing trafficking in persons. These included a consultation in the Gulf region, held in Abu Dhabi, a consultation on the Arab initiative to combat trafficking held in Qatar, and a training held at the International Training Center on Migration and Combating Trafficking in Human Beings in Minsk. OHCHR is developing a "Fact sheet on human rights and trafficking", to complement the tools already developed on this field.

35. Increasingly, through its field offices, OHCHR has become engaged in migration-related human rights work including through the promotion of the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families and other relevant instruments, training activities, advocacy, technical advice and other initiatives, including:

(a) The OHCHR office in Colombia assisted the Government in preparing its second report to the Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families on its obligations under the Convention;

(b) The Human Rights Adviser to the office of the United Nations Resident Coordinator in the Republic of Moldova intervened in a landmark case regarding the right to family life of migrants living with HIV, through the provision of a range of legal materials to the Supreme Court of Justice. On 22 December 2010, the Supreme Court ruled in favour of the petitioner;

(c) The OHCHR regional office in Central America, together with the United Nations Development Group's Latin America and Caribbean regional technical group on human rights, organized a regional training-of-the-trainers session on

human mobility in Panama from 29 November to 3 December 2010. The session was designed to build the capacity of staff from different agencies operating in Latin America in order to assist regional Governments in developing policies on mixed migration flows that were grounded in human rights norms and standards. In 2011, the OHCHR regional office continued to promote a human rights approach to migration through regional forums such as the seminar on the human rights of migrant populations, organized by the Regional Conference on Migration in Tegucigalpa from 9 to 11 February 2011;

(d) The OHCHR regional office in the Middle East joined the United Nations country team in Lebanon in adopting a voluntary code of conduct for United Nations staff who employ domestic workers. The code requests United Nations staff to abide by 21 specific standards regarding the employment of people who care for families and households;

(e) The OHCHR regional office in South-East Asia worked in partnership with member States of the Association of Southeast Asian Nations (ASEAN), United Nations agencies and civil society organizations on several programmes and activities related to the protection of migrants. On 13 December 2010, in cooperation with the regional thematic working group on international migration, the regional office organized an event to celebrate the twentieth anniversary of the Convention. On 16 December 2010, in cooperation with the National Human Rights Commission of Thailand, the Ministry of Social Development and Human Security, the Royal Thai Police and the Anti-Human Trafficking Network, the regional office organized an event entitled "Join hands to combat human trafficking". The commentary on the Recommended Principles and Guidelines on Human Rights and Human Trafficking was launched during the event. In June 2011, the regional office organized a round table on human smuggling in collaboration with the Global Alliance Against Traffic in Women;

(f) The OHCHR regional office in Europe, in cooperation with UNHCR and UNICEF and with the support of Save the Children, the European Council on Refugees and Exiles and the Supreme Court of Catalonia, Spain, organized a judicial colloquium on the implementation in Europe of article 3 (best interest of the child) of the Convention on the Rights of the Child regarding the situation of migrant children, including unaccompanied and separated children. The colloquium, which was held on 8 July 2011, brought together judges from regional and national courts in Europe to discuss experiences and good practices in best interest determinations in procedures dealing with migrant children. On 22 June, the regional office launched a study on the Convention and related developments in legislation and policy on migration in Europe. On the occasion of the launch, the regional office organized a press conference at the European Parliament;

(g) The OHCHR regional office in Central Asia participated actively in a regional conference on refugee protection and international migration in Central Asia, which was organized by UNHCR in Almaty, Kazakhstan, in March 2011;

(h) The OHCHR regional office in West Africa is a founding member of the regional group on refugee protection and mixed migration, together with the IOM and UNHCR regional offices. Within the framework of the group, several activities have been carried out in the past 12 months to promote the ratification and implementation of the Convention, including the organization of an event, aimed at Government representatives, civil society, United Nations partners and migrants'

organizations, to celebrate the twentieth anniversary of the Convention. The regional office has also facilitated presentations on the Convention at training sessions on migration issues organized by IOM and UNHCR, including, in one instance, a contribution to a joint IOM-UNHCR publication on the protection of people on the move;

(i) The OHCHR regional office in Central Africa, together with the human rights component of the United Nations office in the Central African Republic, IOM and the Economic Community of Central African States, organized, from 6 to 8 December 2010 in Yaoundé, the first subregional dialogue on migration and human rights, gathering representatives of Governments and civil society organizations from Gabon, Equatorial Guinea, Chad, the Congo, the Central African Republic and Cameroon.

IX. Conclusions and recommendations

36. **The Secretary-General:**

(a) **Welcomes the information received from Member States concerning legislation, regulations and policies to strengthen the protection of the human rights of migrants;**

(b) **Encourages States to include in their national reports to the universal periodic review mechanism of the Human Rights Council information on measures to protect the human rights of migrants;**

(c) **Encourages the Special Rapporteur of the Human Rights Council on the human rights of migrants to continue to promote the protection of the human rights of migrants through his dialogue with Member States;**

(d) **Encourages States to ratify all relevant international human rights instruments and, in particular, to ratify and effectively implement the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families. The Secretary-General further encourages States parties to make declarations under articles 76 and 77 of the Convention recognizing the competence of the Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families to receive and consider inter-State and individual complaints;**

(e) **Underlines that States have an obligation under the core international human rights instruments to protect the human rights of all individuals under their jurisdiction, regardless of their nationality or legal status, including migrants who are in an irregular situation;**

(f) **Urges States to protect the fundamental human rights of all migrants in the context of administrative detention and encourages States to explore alternatives to such detention;**

(g) **Underlines the vulnerability of many migrant domestic workers, and calls on States to ensure that there are adequate protection mechanisms in place to protect their human rights.**